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**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**MARC BRYAN NASH, M.D.**

21 MEADOW DRIVE  
MILL VALLEY, CA 94941

**PHYSICIAN'S AND SURGEON'S CERTIFICATE NO. A100507**

**RESPONDENT.**

Case No. 800-2017-038989

**DEFAULT DECISION  
AND ORDER**

[Gov. Code, §11520]

On April 27, 2018, an employee of the Medical Board of California (Board) sent by certified mail a copy of Accusation No. 800-2017-038989, Statement to Respondent, Notice of Defense in blank, copies of the relevant sections of the California Administrative Procedure Act as required by sections 11503 and 11505 of the Government Code, and a request for discovery, to Marc Bryan Nash, M.D. (Respondent) at his address of record with the Board, 21 Meadow Drive, Mill Valley, CA 94941. The United States Post Office returned the package marked "Undeliverable as Addressed Unable to Forward." (Accusation package, proof of service, USPS returned envelope, Exhibit Package, Exhibit 1<sup>1</sup>.)

There was no response to the Accusation. On June 20, 2018, an employee of the Attorney General's Office sent by certified mail, addressed to Respondent at his address of record, a courtesy Notice of Default, advising Respondent of the service Accusation, and providing him with an opportunity to file a Notice of Defense and request relief from default. (Exhibit Package, Exhibit 2, Notice of Default, proof of service.)

Respondent has not responded to service of the Accusation or the Notice of Default. He has not filed a Notice of Defense. As a result, Respondent has waived his right to a hearing on the merits to contest the allegations contained in the Accusation.

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<sup>1</sup> The evidence in support of this Default Decision and Order is submitted herewith as the "Exhibit Package."

## FINDINGS OF FACT

### I.

Kimberly Kirchmeyer is the Executive Director of the Board. The charges and allegations in the Accusation were at all times brought and made solely in the official capacity of the Board's Executive Director.

### II.

On June 20, 2007, Physician's and Surgeon's Certificate No. A100507 was issued by the Board to Marc David Nash, M.D. The certificate expired on October 31, 2014, and is SUSPENDED based on an order issued by the Board on April 6, 2018 pursuant to Business and Professions Code section 2310(a). (Exhibit Package, Exhibit 3, license certification.)

### III.

On April 27, 2018, Respondent was duly served with an Accusation, alleging causes for discipline against Respondent. A courtesy Notice of Default was thereafter served on Respondent. Respondent failed to file a Notice of Defense.

### IV.

The allegations of the Accusation are true as follows:

On November 17, 2017, the Montana Board of Medical Examiners issued a Final Order by Default regarding Respondent's license to practice medicine in Montana. The Final Order by Default contains factual findings that the Montana Board investigated a complaint from a Montana medical center where Respondent worked from June 2013 until December 2016. The complaint pertained to Respondent's failure to document patient charts, and his refusal to finish documentation on 130 patient charts after he left his employment. The Montana Board noted that patient charts are not minor administrative matters, and that failure to adequately document patient charts puts patients at risk of harm by compromising the continuity of care and appropriate ongoing treatment by subsequent providers. Based on these findings, Respondent's Montana license was indefinitely suspended until such time as he completes continuing education in the area of patient charting and completes the 130 medical center patient charts. (A true and correct

1 copy of the Final Order by Default issued by the Montana Board of Medical Examiners is  
2 attached to the Accusation, Exhibit Package, Exhibit 1.)

3 **DETERMINATION OF ISSUES**

4 Pursuant to the foregoing Findings of Fact, Respondent's conduct and the action of the  
5 Montana Board of Medical Examiners constitute cause for discipline within the meaning of  
6 Business and Professions Code sections 2305 and 141(a).

7 **DISCIPLINARY ORDER**

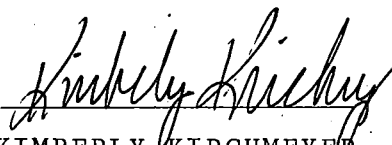
8 Physician's and Surgeon's certificate No. A100507 issued to Marc Bryan Nash, M.D.  
9 is hereby **REVOKED**.

10 Respondent shall not be deprived of making a request for relief from default as set forth in  
11 Government Code section 11520(c) for good cause shown. However, such showing must be  
12 made in writing by way of a motion to vacate the default decision and directed to the Medical  
13 Board of California at 2005 Evergreen Street, Suite 1200, Sacramento, CA 95815 within seven  
14 (7) days of the service of this Decision.

15 This Decision will become effective August 9, 2018

16 It is so ordered on July 10, 2018.

17  
18 MEDICAL BOARD OF CALIFORNIA  
19 DEPARTMENT OF CONSUMER AFFAIRS  
20 STATE OF CALIFORNIA

21 By   
22 KIMBERLY KIRCHMEYER  
23 EXECUTIVE DIRECTOR  
24  
25  
26  
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28

1 XAVIER BECERRA  
Attorney General of California  
2 JANE ZACK SIMON  
Supervising Deputy Attorney General  
3 State Bar No. 116564  
4 455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
Telephone: (415) 510-3521  
5 Facsimile: (415) 703-5480  
E-mail: Janezack.simon@doj.ca.gov  
6 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO April 27 2018  
BY R. Fitzgerald ANALYST

7 **BEFORE THE**  
8 **MEDICAL BOARD OF CALIFORNIA**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 800-2017-038989

12 **MARC BRYAN NASH, M.D.**  
21 Meadow Drive  
13 Mill Valley, CA 94941

**A C C U S A T I O N**

14 Physician's and Surgeon's Certificate  
No. A100507

15 Respondent.

16 The Complainant alleges:

17 **PARTIES**

18  
19  
20 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
21 of California, Department of Consumer Affairs (Board), and brings this Accusation solely in her  
22 official capacity.

23 2. On June 20, 2007, Physician's and Surgeon's Certificate No. A100507 was issued by  
24 the Medical Board of California to Marc Bryan Nash, M.D. (Respondent). The certificate is in  
25 delinquent status, having expired on October 31, 2014, and is SUSPENDED by virtue of an Order  
26 issued by the Board on April 6, 2018 pursuant to Business and Professions Code section 2310(a).

27 ///

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## JURISDICTION

3. This Accusation is brought before the Medical Board of California under the authority of the following sections of the California Business and Professions Code (Code) and/or other relevant statutory enactment:

A. Section 2227 of the Code provides in part that the Board may revoke, suspend for a period not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act, and may recover the costs of probation monitoring.

B. Section 2305 of the Code provides, in part, that the revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California under the Medical Practice Act, constitutes grounds for discipline for unprofessional conduct.

C. Section 141 of the Code provides:

“(a) For any licensee holding a license issued by a board under the jurisdiction of a department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or by another country shall be conclusive evidence of the events related therein.

“(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by the board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country.”

## FIRST CAUSE FOR DISCIPLINE

(Discipline, Restriction, or Limitation Imposed by Another State)

4. On November 17, 2017, the Montana Board of Medical Examiners issued a Final Order by Default regarding Respondent's license to practice medicine in Montana. The Final Order by Default contains factual findings that the Montana Board investigated a complaint from

1 a Montana medical center where Respondent worked from June 2013 until December 2016. The  
2 complaint pertained to Respondent's failure to document patient charts, and his refusal to finish  
3 documentation on 130 patient charts after he left his employment. The Montana Board noted that  
4 patient charts are not minor administrative matters, and that failure to adequately document  
5 patient charts puts patients at risk of harm by compromising the continuity of care and appropriate  
6 ongoing treatment by subsequent providers. Based on these findings, Respondent's Montana  
7 license was indefinitely suspended until such time as he completes continuing education in the  
8 area of patient charting and completes the 130 medical center patient charts. A copy of the Final  
9 Order by Default issued by the Montana Board of Medical Examiners is attached as Exhibit A.

10 5. Respondent's conduct and the action of the Montana Board of Medical Examiners, as  
11 set forth in paragraph 4, above, constitutes cause for discipline pursuant to sections 2305 and/or  
12 141 of the Code.


13 **PRAYER**

14 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
15 and that following the hearing, the Board issue a decision:

- 16 1. Revoking or suspending Physician's and Surgeon's Certificate Number A100507  
17 issued to Respondent Marc Bryan Nash, M.D.;
- 18 2. Revoking, suspending or denying approval of Respondent's authority to supervise  
19 physician assistants and advanced practice nurses;
- 20 3. Ordering Respondent, if placed on probation, to pay the costs of probation  
21 monitoring; and
- 22 4. Taking such other and further action as the Board deems necessary and proper.

23 DATED:

24 April 27, 2018

25   
26 KIMBERLY KIRCHMEYER  
27 Executive Director  
28 Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant

**ORIGINAL**

**BEFORE THE BOARD OF MEDICAL EXAMINERS  
STATE OF MONTANA**

In the Matter of

**MARC NASH MD,**

Medical Doctor, License No. 20621.

Case No. 2017-MED-166

**FINAL ORDER BY DEFAULT**

Giving primary consideration to the sanctions necessary to protect and compensate the public and secondary consideration to sanctions necessary to rehabilitate Marc Nash MD (Respondent), the Montana Board of Medical Examiners (Board), by a preponderance of the evidence, enters the following:

**FINDINGS OF FACT**

1. The Department of Labor and Industry (Department) sent Respondent a Notice of Proposed Board Action and Opportunity for Hearing (Notice) by United States Postal Service (USPS) certified mail to the address on file with the Board, as authorized by Mont. Code Ann. § 37-1-309(1). See, Exhibit A attached hereto.
2. USPS returned the certified mail receipt indicating receipt of the Notice at Respondent's address on file with the Board. Ex. A.
3. The Notice provided an opportunity for a hearing if requested within 20 days of receipt of the Notice. More than 20 days have passed since Respondent's receipt of the Notice and there has been no receipt by the Board of a hearing request. Ex. A.
4. Respondent holds a Medical Doctor license, number 20621, issued on or about November 14, 2012. Respondent's license is active through March 31, 2018.
5. On March 6, 2017, the Board received a complaint against Respondent filed by St. James Cancer Center (Center) in Butte, Montana.

Final Order by Default  
In Re Marc Nash MD, Case No. 2017-MED-166

CERTIFIED CORRECT COPY OF ORIGINAL  
OF PUBLIC RECORD, STATE OF MONTANA

*Lakell M. Pott*  
BY: CLERK OF RECORD  
1-24-2018

6. The complaint states that Respondent worked at the Center from June 17, 2013, to December 12, 2016. During the time of employment, documentation of patient charts was a challenge for Respondent, even after the Center worked with him to try and alleviate the problem.

7. Since Respondent left his employment, he has refused to finish documentation on 130 patient charts, even after he was given remote access to finish the charts. The Center has assisted Respondent in every way they can to help meet this basic standard of care, but Respondent has been unsuccessful. Respondent did not respond to the complaint giving an explanation for his actions.

8. Respondent is licensed to practice in Montana and has a current active license. Respondent also has licenses in California and Iowa. Respondent's California license expired in October of 2014, and his Iowa license is on inactive status. Respondent has never had any disciplinary action taken against any of his medical licenses.

9. The Screening Panel met on June 16, 2017. Respondent was given notice of the meeting and did not attend. The Screening Panel found reasonable cause to believe Respondent violated rules, statutes, and standards applicable to Respondent's license and moved to initiate disciplinary action. In making this finding, the Screening Panel noted that patient charts are not minor administrative matters. Failure to adequately document patient charts puts patients at risk of harm by compromising the continuity of care and appropriate ongoing treatment by subsequent providers.

Based upon the above Findings of Fact, the Board makes the following Conclusions of Law:



### **CONCLUSIONS OF LAW**

1. The Board has subject matter jurisdiction and legal authority to bring this action under Mont. Code Ann. §§ 37-1-131, 37-1-136, 37-1-307, 37-1-309 and Title 37, chapter 3.

2. Pursuant to Mont. Code Ann. § 37-1-309(3), a licensee's failure to request a hearing within 20 days of receipt of the Notice constitutes a default on the charge or charges allowing the Board to enter a decision based on the facts available to it.

3. Respondent failed to adequately document 130 patient charts on patients that he provided services for while working at the St. James Cancer Center. Further, Respondent's failure compromised the continuity of care and the ongoing treatment of subsequent providers. Respondent's conduct violated Mont. Code Ann. § 37-1-316(18).

Based upon the above Findings of Fact and Conclusions of Law, the Board enters the following Final Order:

### **FINAL ORDER**

1. Respondent's Montana license is indefinitely suspended. Mont. Code Ann. § 37-1-312(1)(b). Respondent must renew the suspended license or it will lapse, expire, and terminate subject to Admin. R. Mont. 24.101.408. Respondent shall meet each and all of the terms and conditions listed below timely and completely to the sole satisfaction of the Board or its designee. Upon completion of all conditions listed below, Respondent's license shall be reinstated from suspended to active status.

2. Respondent is required to complete, at his own expense, an additional five (5) hours of board-approved continuing education classes in the area of patient charting. These courses shall be taken in addition to those normally required of the Respondent for continuing education.

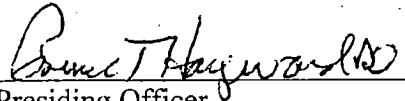
3. Respondent shall provide proof of completion of five (5) hours of continuing education to the Department in the appropriate form of a certificate of completion. The certificates shall be forwarded to the Board office at the following address:

Board of Medical Examiners  
Compliance Unit  
301 South Park  
PO Box 200514  
Helena, MT 59620-0514

4. Respondent shall complete the patient charts for the 130 patients listed in the complaint. Respondent shall provide the Board with a letter from St. James Cancer Center that he has completed the charting.

5. Respondent shall pay an administrative fine in the amount of \$250.00, payable to the Montana Board of Medical Examiners, and such payment shall be tendered to the address stated above in ¶3. Mont. Code Ann. § 37-1-312(1)(h).

DATED this 17<sup>th</sup> day of November, 2017.

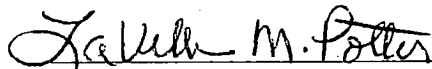
  
\_\_\_\_\_  
Presiding Officer  
Montana Board of Medical Examiners

**CERTIFICATE OF SERVICE**

I certify I served a true and accurate copy of the foregoing *FINAL ORDER BY DEFAULT*  
via United States Postal Service, first-class postage prepaid, on the following:

MARC NASH MD  
21 MEADOW DRIVE  
MILL VALLEY CA 94941

DATED this 21<sup>st</sup> day of November, 2017.

  
\_\_\_\_\_  
Department of Labor and Industry

**BEFORE THE BOARD OF MEDICAL EXAMINERS  
STATE OF MONTANA**

In the Matter of  <b>MARC NASH MD,</b>  Medical Doctor, License No. 20621.	Case No. 2017-MED-166  <b>EXHIBIT A</b> <b>AFFIDAVIT OF SARAH J. BRADEN</b>
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I, Sarah J. Braden, state as follows:

1. I am a citizen of the United States, over 18 years of age, a resident of Lewis and Clark County, Montana, and employed by the Montana Department of Labor and Industry (Department) as Supervising Paralegal for the Office of Legal Services. In my position, I direct legal support staff to effect service of process pursuant to Mont. Code Ann. § 37-1-309(1).

2. The statements below are based upon legal support staff's review of the Department's file and database pursuant to Montana statutes regarding service of process.

3. On September 20, 2017, the Department mailed a Notice of Proposed Board Action and Opportunity for Hearing (Notice) to Marc Nash MD (Respondent) at his address on file with the Board of Medical Examiners (Board) by United States Postal Service (USPS), certified mail receipt no. 7015 0640 0007 2072 0366.

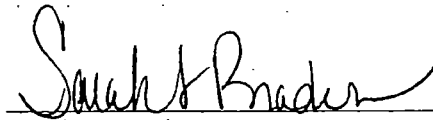
4. USPS returned the certified mail receipt indicating that the Notice was received at Respondent's address on file with the Board on September 28, 2017.

5. The Notice provided an opportunity for a hearing if requested within 20 days of receipt of the Notice. More than 20 days have passed since Respondent's receipt of the Notice and no request for a hearing has been received.

6. I have no knowledge of or reason to believe Respondent is an incompetent person, minor, or a member of the military or naval services of the United States now or within six months preceding commencement of this action.

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 18<sup>th</sup> day of October, 2017.

A handwritten signature in cursive script, appearing to read "Sarah J. Braden", written over a horizontal line.

Sarah J. Braden